



NOT PROTECTIVELY MARKED

# WEST MIDLANDS POLICE

## Force Policy Document

<b>POLICY TITLE:</b>	<b>FORFEITURE</b>
<b>POLICY REFERENCE NO:</b>	<b>HR/07</b>

### Executive Summary.

The Police Pension Regulations 1987, Regulation K (5), provides for the forfeiture of police officer pensions in certain circumstances. This document provides guidance in terms of its' application and details the process that will be followed by West Midlands Police in order to determine whether an application for forfeiture should be made, as well as detailed information on each of the stages.

*\*\*Any enquiries in relation to this policy should be made be made directly with that of the policy contact / department shown below.*

### Intended Policy Audience.

This policy is aimed at all Police Officers and Staff of West Midlands Police.

<b>Current Version And Effective Date.</b>	<b>Version 1.2</b>	<b>09.01.2013</b>
<b>Business Area Owner</b>	<b>Human Resources</b>	
<b>Department Responsible</b>	<b>Corporate Human Resources</b>	
<b>Policy Contact</b>	<b>Tina Fergus, 57337</b>	
<b>Policy Author</b>	<b>Jackie Brown, 54328</b>	
<b>Approved By</b>	<b>David Thompson, Deputy Chief Constable</b>	
<b>Policy Initial Implementation Date</b>	<b>09.01.2013</b>	
<b>Review Date</b>	<b>2 Years</b>	
<b>Protective Marking</b>	<b>Not protectively marked</b>	
<b>Suitable For Publication – Freedom Of Information</b>	<b>Yes</b>	

### Supporting Documents

- *(Title and links to documents)*

### Evidence Based Research

Full supporting documentation and evidence of consultation in relation to this policy including that of any version changes for implementation and review, are held with the Force Policy Co-ordinator including that of the authorised original Command Team papers.

**Please Note.**

**PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UPTO DATE VERSION OF ANY POLICY OR DIRECTIVE CAN BE FOUND ON THE EQUIP database on the Intranet.**

**Force Diversity Vision Statement and Values**

“Eliminate unlawful discrimination, harassment and victimisation. Advance equality of opportunity and foster good relations by embedding a culture of equality and respect that puts all of our communities, officers and staff at the heart of everything we do. Working together as one we will strive to make a difference to our service delivery by mainstreaming our organisational values”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender reassignment, religion/belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

**CONTENTS**

1.	<b>POLICY.....</b>	<b>4</b>
2.	<b>PROCEDURE.....</b>	<b>4</b>
2.1	<b>HAS THE OFFICER BEEN CONVICTED IN THE CRIMINAL COURTS.....</b>	<b>4</b>
2.2	<b>IF THE OFFICER HAS BEEN CONVICTED IN THE CRIMINAL COURTS, WAS THE CONVICTION COMMITTED IN CONNECTION WITH HIS OR HER SERVICE AS A MEMBER OF THE POLICE FORCE.....</b>	<b>4</b>
3.	<b>EQUALITY IMPACT ASSESSMENT (EQIA). ....</b>	<b>6</b>
4.	<b>HUMAN RIGHTS.....</b>	<b>6</b>
5.	<b>FREEDOM OF INFORMATION (FOI). ....</b>	<b>7</b>
6.	<b>TRAINING.....</b>	<b>7</b>
7.	<b>PROMOTION / DISTRIBUTION &amp; MARKETING.....</b>	<b>7</b>
8.	<b>REVIEW.....</b>	<b>7</b>
9.	<b>VERSION HISTORY.....</b>	<b>8</b>

## 1. POLICY

The Police Pension Regulations 1987, Regulation K (5), provides for the forfeiture of police pensions. The Police and Crime Commissioner has delegated authority to the Chief Constable to make application on its behalf to the Home Secretary for a Certificate of Forfeiture to be issued in appropriate circumstances.

## 2. PROCEDURE

In all cases where an officer has been convicted of criminal offences, Professional Standards, Legal Services and Human Resources Department representatives will prepare a position paper. This will be presented to the Chief Constable by the Human Resources Department for consideration as soon as possible after the conviction is brought to light.

Initially, the Chief Constable will consider two factors.

### 2.1 HAS THE OFFICER BEEN CONVICTED IN THE CRIMINAL COURTS

Forfeiture cannot be applied for in cases where there is no criminal conviction. A term of imprisonment is not essential, but a lesser punishment would tend to suggest that the Court did not take an especially serious view of the offence. Criminal offences committed and convictions received in foreign countries and convictions that have occurred after the officer has left the employment of the Force, will also be considered for the purpose of forfeiture.

### 2.2 IF THE OFFICER HAS BEEN CONVICTED IN THE CRIMINAL COURTS, WAS THE CONVICTION COMMITTED IN CONNECTION WITH HIS OR HER SERVICE AS A MEMBER OF THE POLICE FORCE

The Courts have determined that 'in connection with' does not mean that forfeiture cannot be considered if at the time of commission the person was no longer a police officer.

If the Chief Constable decides there is **no connection** between the offence(s) and the role of a police officer, application will **not** be made. The HR Adviser will then advise the Professional Standards, Legal Services and Finance Departments accordingly.

If the Chief Constable decides there **is a connection** between the offence(s) and the role of a police officer, he will also refer to the following seven Home Office criteria in deciding whether to make application for forfeiture.

- Did the officer go to prison?
- Was it an organised conspiracy amongst officers?
- Was there active support for criminals?
- Was it a betrayal of trust for personal gain?
- Did it involve corruption or attempted corruption of junior officers?
- Did it involve the perversion of the course of justice?
- The seniority of the officer.

He will also consider the following factors.

- Any compassionate aspects.
- Length of time since the offence came to light.

If the Chief Constable decides to make application for forfeiture, the HR Adviser will inform the individual and offer the opportunity to make written representation to the Chief Constable. Copies of the correspondence will be forwarded to the Force's Professional Standards, Legal Services and Finance Departments and the Federation/Superintendents' Association (as appropriate).

### NOT PROTECTIVELY MARKED

Having decided to make application, the Chief Constable will sign the papers and the HR Adviser will forward the papers to the Home Office. The papers will include the following.

- A statement that, in the view of the Police and Crime Commissioner, the *offence(s)* was committed in connection with service as a member of the police force and is liable to lead to serious loss of confidence in the public service.
- Details of the offence(s).
- Details of the connection between the offence(s) and service as a member of the police force.
- Details of the circumstances surrounding the offence(s) and investigation, in particular whether the offence(s) involved any of the seven Home Office criteria.
- Details of the punishment imposed by the Court and the Judge's sentencing remarks, if known.
- Details of the press and media coverage.
- Brief details of the officer's service, in particular, length of service and seniority.
- Financial aspects of pension entitlements.

The HR Adviser will liaise with the Home Office and arrange for any additional information required to be supplied.

On receipt of the decision of the Home Office, the HR Adviser will inform the individual.

If the decision of the Home Office is **not** to issue a certificate of forfeiture, the HR Adviser will inform the individual and prepare a report to the Police and Crime Commissioner communicating the outcome of the application.

If the decision of the Home Office **is** to issue a certificate of forfeiture, a copy of the correspondence from the Home Office will be enclosed. The individual will be informed of the date on which the Police and Crime Commissioner will consider the matter and be offered a further opportunity to make written representation. Copies of the correspondence will be forwarded to the Force's Professional Standards, Legal Services and Finance Departments and the Federation/Superintendents' Association (as appropriate).

The Chief Constable will then decide the level of pension forfeiture to be recommended to the Police and Crime Commissioner and whether the forfeiture should be temporary or permanent.

In doing so, the Chief Constable will consider the following:

- The secured portion of the pension cannot be forfeited permanently and the guaranteed minimum pension payable at 65 cannot be forfeited at all.
- The maximum that can be forfeited is 65%.
- 30% to 65% forfeiture would normally be expected to be imposed. -The imposed forfeiture would normally be of a permanent nature.
- Any temporary forfeiture would normally relate to the secured portion of the pension, with the guaranteed minimum payable at age 65.
- The seven Home Office criteria.
- Any mitigating circumstances, ie.
  - Disability in the family.
  - Illness at the time of the offence.
  - Assistance or information given to the police.
  - The level of forfeiture applied in previous cases.

The HR Adviser will prepare the draft paper to the Police and Crime Commissioner for signature by the Chief Constable and the Legal Advisor to the Police and Crime Commissioner.

## **NOT PROTECTIVELY MARKED**

The following papers will be provided to accompany the Police and Crime Commissioner's paper:

- Copy of the Certificate of Forfeiture issued by the Home Office.
- Management Case Paper setting out the brief details of the case, charges and prison sentence received and containing a synopsis of the comments of the Home Secretary and the level of forfeiture to be recommended by the Chief Constable.
- Details of the incident(s).
- Table outlining the effect of the application of different forfeiture levels on the individual's pension.
- Any correspondence/representation received from the individual or the individual's representative.

A copy of the papers to be presented to the Police and Crime Commissioner will then be forwarded to the individual (recorded delivery) and a final opportunity to make representation to the Chief Constable, in writing or orally, will be offered. Copies of the correspondence will be forwarded to the Force's Professional Standards, Legal Services and Finance Departments and the Federation/Superintendents' Association (as appropriate).

Any additional representation received will be incorporated into the papers to be presented to the Police and Crime Commissioner. The Police and Crime Commissioner has delegated responsibility to the Chief Constable for dealing with written representation made directly to the Police and Crime Commissioner by the individual and/or for any request to make oral representation.

Following the Police and Crime Commissioner meeting, the HR Adviser will notify the individual of the decision and where appropriate the extent of forfeiture to be applied and of the right of the individual to appeal to the Crown Court under Police Regulation H5.

Copies of the correspondence will be forwarded to the Force's Professional Standards Department, Legal Services Department and Finance Department (for action) and the Federation/Superintendents' Association (as appropriate).

The HR Adviser will also notify the Home Office of the decision and the extent of forfeiture to be applied.

### **3. EQUALITY IMPACT ASSESSMENT (EQIA)**

The Policy has been reviewed and drafted against all protected characteristics in accordance with the Public Sector Equality Duty embodied in the Equality Act 2010. The policy has therefore been Equality Impact Assessed to show how WMP has evidenced 'due regard' to the need to:

- Eliminate discrimination, harassment, and victimisation.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

*Supporting documentation in the form of an EQIA has been completed and is available for viewing in conjunction with this Policy.*

### **4. HUMAN RIGHTS**

- 4.1. This policy has been implemented and reviewed in accordance with that set out with the European Convention and principles provided by the Human Rights Act 1998. The application of this policy has no differential impact on any of the articles within the Act. However, failure as to its

**NOT PROTECTIVELY MARKED**

implementation would impact on the core duties and values of WMP (and its partners), to uphold the law and serve/protect all members of its community (and beyond) from harm, effecting that of:

**5. FREEDOM OF INFORMATION (FOI)**

- 5.1 Public disclosure of this policy document is determined by the Force Policy Co-ordinator on agreement with its owner. Version 1.1 of this policy has been GPMS marked as not protectively marked.
- 5.2 Public disclosure does not automatically apply to supporting Force policies, directives and associated guidance documents, and in all cases the necessary advice should be sought prior to disclosure to any one of these associated documents.

Which exemptions apply and to which section of the document?	Whole document	Section number

**6. TRAINING**

**7. PROMOTION / DISTRIBUTION & MARKETING**

The following methods will be adopted to ensure full knowledge of the Policy:

**8. REVIEW**

- 8.1 The Policy business owner, the Corporate HR Department maintain outright ownership of the policy and any other associated documents and in-turn delegate responsibility to the department/unit responsible for its continued monitoring.
- 8.2 The policy should be considered a 'living document' and subject to regular review to reflect upon any Force, Home Office/ACPO, legislative changes, good practice (learning the lessons) both locally and nationally, etc.
- 8.3 A formal review of the Policy document, including that of any other potential impacts i.e. EQIA, will be conducted by the date shown as indicated on the first page.
- 8.4 Any amendments to the Policy will be conducted and evidenced through the Force Policy Co-ordinator and set out within the version control template.
- 8.5 Feedback is always welcomed by that of the author/owner and/or Force Policy Co-ordinator as to the content and layout of the policy document and any potential improvements.



CHIEF CONSTABLE

9. VERSION HISTORY.

Version	Date	Reason for Change	Amended/Agreed by.
Version 1.0	22 / 11 / 2012	To amend the words Police Authority to the words Police and Crime Commissioner. This is to reflect the disestablishment of the Police Authority and the installation of the Police and Crime Commissioner. Also to amend spelling, grammar and general changes in policy	Chris Rowson, Head of HR
Version 1.1	22 / 11 / 2012	<p><b>Paragraph 1</b></p> <ul style="list-style-type: none"> <li>“West Midlands Police Authority” has now changed to “Police and Crime Commissioner”</li> </ul> <p><b>Paragraph 2.2</b></p> <ul style="list-style-type: none"> <li>“Complaints and Discipline” has changed to “Professional Standards”</li> <li>“Personnel Department” has changed to “Human Resources Department”</li> </ul> <p><b>Paragraph 2.2</b></p> <ul style="list-style-type: none"> <li>“Personnel Adviser” has changed to “HR Adviser”</li> <li>“will inform the individual and offer the individual opportunity” has changed to “will inform the individual and offer the opportunity”</li> <li>“Complaints and Discipline” has changed to Professional Standards</li> <li>“The following papers will accompany the Police and Crime Commissioner’s paper” has changed to “The following papers will be provided to accompany the Police and Crime Commissioner’s paper”</li> <li>“Any correspondence/representation received from the individual the individual’s representative” has been changed to “Any correspondence/representation received from the individual or the individual’s representative”</li> <li>“Police Authority” has changed to “Police and Crime Commissioner”</li> <li>“make oral representation to the Chairperson / Members” has been deleted</li> <li>“Following the Police Authority meeting” has changed to “Following the Police and Crime Commissioner’s decision”</li> <li>“the Personnel Adviser will notify the individual of the decision of the Authority” has changed to “the HR Adviser will notify the individual of the decision and, where appropriate, the”</li> <li>“individual of appeal” has changed to “individual to appeal”</li> </ul>	
V.1.2	06.12.2012	To DCC for approval	DCC Thompson